HIGH COURT OF UTTARANCHLA AT NAINITAL

Writ Petition no. 326 of 2004

Surendra Prasad Bhatt ……. Petitioner

Versus

State of Uttaranchla & others …… Respondents

Writ Petition No. 333 of 2004

Subodh Kumar ……. Petitioner

Versus

State of Uttaranchal & others …… Respondents

Sri P.C. Jhingan, Advocate for the petitioner
Standing Counsel for the respondents.

Dated: 6.04.2004

Hon'ble Rajesh Tandon J.

Heard the learned counsel for the parties at length.

Both the writ petitions arise out of common facts and law hence both the writ petitions are taken up together for disposal.

By both the writ petitions the petitioners have prayed for the issue of a writ of mandamus directing the respondents to consider the

petitioners for regularisation on the post of Junior Accounts Clerk in the Forest Department.

Briefly stated the facts giving rise to the present writ petitions are the petitioner Sri Subodh Kumar Pandey has been working as Junior Clerk on daily wages in the Office of Divisional Forest Officer, Chakrata at kalsi since 29.6.91 and petitioner Surendra Prasad Bhatt as been working on the same post in the office of D.F.O. Mussoorie since 10.12.1986. Both the petitioners are qualified for the post of Junior clerks.

According to the petitioners on the basis of interim order passed by Allahabad High Court they are getting minimum of pay scale of class III post. The petitioners also referred the order dated 12.5.2000 issued by the Conservator of Forest, U.P. Lucknow by which he has directed to complete the formalities and regularise the petitioners within one month in accordance with availability of the post but the said process has not yet been started.

The grievance of the petitioners is tat they have been engaged on the posts of Junior Clerk and a such they are entitled to be considered under Uttaranchal Regularisation of Ad hoc appointments (Out side the preview of Public Service Commission) Rules 2002. The petitioners also referred to the judgment of this Court

passed in Writ Petition no. 3431 of 2001 (SS) and 4544 of 2001 (SS). The operative portion of the order is quoted below:

"The petitioner is still being treated for the purpose of regularisation as Daily Wager. It is illegal, as the petitioner is working on Adhoc basis w.e.f. 22.6.1992 and is being paid the pay-scale of Junior Clerk, therefore, the petitioner is eligible to be considered for regularisation under the Regularisation of Adhoc Appointments Rules (Out of Public Services Commissions Rules 1979)as amended up-to date by State of Uttaranchal. Therefore, the respondent are directed to consider the case of the petitioner for regularisation under the aforesaid Rules within aperiod of one month from the date of production of a certified copy of this order."

In another order dated 21.2.2004 passed in Writ Petition No. 96 of 2004 Dalbeer Singh Bisht vs. State of Uttaranchal and others, directions were given to consider the regularization of the petitioner under Uttaranchal Regularisation of Ad hoc Appointment (Outside the Preview of Public Service Commission) Rules 2002.

Considering the aforesaid facts and circumstances respondents are directed to consider the regularisation of the petitioner in accordance with Uttaranchal Regularisation of Ad hoc Appointments (Outside the purview of Public Service Commission) Rules 2002, within three months after the receipt of the certified copy of this order.

Both the writ petitions are disposed of accordingly. No order as to costs.

(Rajesh Tandon, J.)

6.4.04
Dhyani

*Correct vide order dt. 02.03.2005